



February 10, 2005

Senator John Cornyn
U.S. Senate Committee on the Judiciary
Subcommittee on the Constitution, Civil Rights and Property Rights
224 Dirksen Senate Office Building
Washington, D.C. 20510

RE: Openness Promotes Effectiveness in our National Government Act of 2005.

Dear Senator Cornyn:

The Project On Government Oversight (POGO) endorses your legislation entitled the “Openness Promotes Effectiveness in our National Government Act of 2005,” also known as the “OPEN Government Act of 2005.” We believe this bill strengthens the landmark Freedom of Information Act (FOIA), which is a vital tool for citizens to participate in an informed democracy. It reflects much thought and deliberation by yourself and your staff.

In particular, POGO especially applauds the following sections of your legislation:

- Adjusting the definition of media to be based on the “publication history of the requester,” rather than their “institutional affiliations.” This section will open up affordable access to freelance writers and organizations that publish information of public interest through the internet.
- Expanding annual reporting of agencies’ FOIA practices relating to disciplinary actions for improper rejections of FOIA requests, the oldest active requests, and more response statistics. This section will make it easier to see how agencies respond to FOIA requests and if there are problems to be remedied.
- Mandating tracking numbers for requesters so they can easily keep tabs on their request throughout the FOIA process. This section will end the FOIA black hole into which so many requests fall.
- Clarifying that government documents are subject to FOIA regardless of format or whether the records are maintained by agencies directly or by contractors for a federal agency. This section will address the growing trend of government information being held and controlled by government contractors.

- Creating a FOIA ombudsman, the Office of Government Information Services (OGIS), to review and audit agencies' policies, procedures and compliance with FOIA, and to make recommendations to improve agencies' administration of FOIA. The OGIS would also serve as "an alternative to litigation." OGIS would greatly assist oversight and improve administration of FOIA.

Passage of your bill will help ensure the conditions for an open government that is accountable to the people. It will go a long way toward repairing the erosion to the Freedom of Information Act over the last several decades. We thank you for being a leader on this critically important issue.

Sincerely,

A handwritten signature in cursive script that reads "Danielle Brian".

Danielle Brian
Executive Director